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Office of the General Counsel  
Federal Election Commission  
1050 First Street, NE  
Washington, DC 20463  
[cela@fec.gov](mailto:cela@fec.gov)

**Re: MUR 7376 (Response of Republican Party of Florida and its Treasurer,  
Mike Moberley)**

Dear Mr. Jordan:

This Response is being submitted by the undersigned counsel on behalf of the Republican Party of Florida (RPOF) and its Treasurer, Mr. Mike Moberley, in response to the Complaint designated as Matter Under Review 7376.

On April 30, 2018, the FEC received this Complaint against the RPOF filed by a member of the RPOF State Executive Committee, Mr. Bob Starr (Complainant). The RPOF first became aware of the Complaint on May 11, 2018, when it received correspondence from FEC Assistant General Counsel Jeff Jordan. The Complaint alleges possible violations of state and federal election law by the Charlotte County Republican Club and West Charlotte County Republican Club (collectively "Republican Clubs"), and the Charlotte County Republican Executive Committee ("CCREC").<sup>1</sup>

As explained below, the Complaint's only allegation against the RPOF is that it has failed to stop the Republican Clubs or the CCREC from violating the Act or have failed to take enforcement action against them in accordance with the RPOF's own internal party rules.<sup>2</sup> Even if the allegations against Respondent were true, which they are not, the Complaint alleges no violation of the Federal Election Campaign Act of 1971 (the "Act") and no violation that this Commission has jurisdiction over.

The Commission is required to investigate a complaint only if it determines that it has

<sup>1</sup> Complainant is a member of the CCREC and is the State Committeeman from Charlotte County.

<sup>2</sup> See Compl. at 2. (Although Complaint does not include page numbers, Respondent refers to the pages throughout this Response in numerical order beginning with the "Schedule of Enclosures").

“reason to believe” that a person has committed, or is about to commit a violation of the Act.<sup>3</sup> The Commission may find “reason to believe” only if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Act.<sup>4</sup> For the following reasons, it should be found that Respondent did not violate the Act or Commission regulations and dismiss this matter.

## **I. Factual Background**

Complainant makes a series of allegations against entities not named in the Complaint- the Republican Clubs and the CCREC. The CCREC is a county executive committee established pursuant to Florida law<sup>5</sup> and the Republican Clubs are chartered by the RPOF according to internal party rules.

Chartered Republican clubs exist because Florida law prohibits the use of the “Republican” name without first getting permission from the Republican state executive committee.<sup>6</sup> Under the RPOF Rules of Procedure in order for a person or group of persons to use the name, abbreviation, or symbols of the Republican Party in connection with any club, group, association, or organization of any kind it must gain the approval and permission of the RPOF in the form of a written charter.<sup>7</sup> Internal RPOF party rules provide for the chartering process for Republican Clubs. When a club receives permission from the state party under Rule 1 of the RPOF Rules of Procedure, it becomes a “chartered Republican club.”

Although chartered Republican clubs are not automatically regulated by federal or Florida election law, they can become regulated based upon their actions. Because of this, RPOF Rule 1 requires that, “Chartered Republican clubs must conduct their affairs in compliance with applicable state and federal election and campaign finance laws.” If a chartered Republican club is not in compliance with state or federal election laws then this can be grounds for the revocation of the charter.<sup>8</sup>

Republican county executive committees are regulated by RPOF rules, Florida law, and if they participate in federal elections- federal election law. Although county executive committees are under the Republican Party umbrella, they are separate and distinct local political parties with

<sup>3</sup> See 2 USC §437g(a)(2).

<sup>4</sup> See MUR 4960, Commissioners Mason, Sandstrom, Smith, and Thomas, Statement of Reasons (Dec. 21, 2001).

<sup>5</sup> Section 103.091(1), Florida Statutes, “County executive committees and other committees may be established in accordance with the rules of the state executive committee.”

<sup>6</sup> See § 103.081(2), Fla. Stat.

<sup>7</sup> See Rule 1- Chartering Process for Republican Clubs, RPOF Party Rules of Procedure, as revised by the State Executive Board, January 6, 2018, on file with the Fla. Dep’t of State and available at: <http://dos.elections.myflorida.com/campaign-docs/?account=4700> (last accessed June 24, 2018).

<sup>8</sup> See *id.* at (C)(3), “Failure to comply with the requirements of this Rule constitutes good cause for revocation of a general charter.”

their own elected officials, registration, and reporting requirements.<sup>9</sup>

The Complaint alleges that the Republican Clubs and the CCREC have violated Florida law and asserts they “may have” and “possibly” violated federal law regarding excessive contributions and/or expenditures. The allegations are vague and largely based upon the Complainant’s own speculation and hearsay. Further, the allegations are not directed towards the Respondent. The Complaint alleges that Respondent “refuses to pull the charters” of the Republican Clubs and “did not do anything” when the Complainant contacted the RPOF about possible violations. Complainant does not allege that Respondent itself has violated the Act, but that Respondent has not enforced its own internal party rules to punish others that have violated the Act.

## **II. Legal Discussion**

### **A. Complaint does not allege that Respondent violated the Act.**

When the Complaint manages to articulate any violation of the Act, it does not allege that the violation was committed by Respondent, but by others, and that Respondent has done nothing to discipline or stop these entities from committing violations of the Act (“The Republican Party of Florida will not help stop it.”).<sup>10</sup> Complainant’s allegations and the documents attached are directed towards and pertain to the Republican Clubs and the CCREC. All of these entities are separate and distinct from the Respondent. Respondent does not control the actions of these entities.

Although Republican county executive committees in Florida and Republican chartered clubs are required to adhere to the guidelines set by the state party, this requirement does not originate from state or federal election law but internal state party rules. Further, because these entities are separate and distinct with their own elected officers, registration and reporting requirements- the RPOF is not somehow vicariously liable if these entities violate state or federal election law without the RPOF’s involvement.

### **B. Complaint’s allegations directed towards others are vague and based on speculation and hearsay.**

Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true by the Commission, and a complaint may be dismissed if it consists of factual allegations that are refuted in the response with sufficiently compelling evidence.<sup>11</sup> When the Complaint alleges violations of the Act, they are directed towards entities other than Respondent, and even if those allegations were true, they are vague and based on Complainant’s own speculation. The Complaint is littered with allegations of “possible” violations: (“.

<sup>9</sup> See §103.121, Fla. Stat., detailing powers and requirements of county executive committees.

<sup>10</sup> See Compl. at 3.

<sup>11</sup> See MUR 4960, Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons (Dec. 21, 2001).

.contributions to the Charlotte County REC by the clubs *may have* made [sic] the two clubs in violation of federal law.”); (“ . . . which *may have* been spent in support of a federal candidate. . . which *may have* been in violation of M/F [sic] Bipartisan Campaign Reform Act and *possibly* other federal laws.”); (“ . . . *may have* been illegally spent on the Donald Trump Campaign by the CCREC.”); (“With these admissions of violations of state and *possibly* federal law. . .”).<sup>12</sup>

The evidence provided to support the possible allegations are also based on hearsay and the Complainant’s own speculation: (“*I am convinced that* serious violations of state and federal law *may have* occurred in other years not only in Charlotte County but *probably* in the other 66 Florida counties.”); (“It was not clear what happened to the contributions for the Presidential Candidate Donald Trump *we were told* the proceeds were sent to the Trump Campaign.”); (“This *may be* just the tip of the iceberg. *I was told by a former treasurer of the Charlotte County REC. That [sic] Chairman Folchi* during the 2012 election cycle wanted to contribute to Senate Federal Candidate Connie Mack \$10,000.00.”); (“*When REC Treasurer Spacco asked Chairman Folchi why he wrote the check in opposition to his boards advice he was told* He [sic] could do what he wanted he was the Chairman.”).<sup>13</sup> In addition to the allegations not being directed towards Respondent, the matter should be dismissed because it is based on mere speculation and hearsay.

**C. Complaint’s only allegation against Respondent is that it has failed to take action under its own internal rules, of which the Commission has no jurisdiction.**

The Complainant expresses frustration that he has brought his allegations to the RPOF and the RPOF has done nothing pursuant to its own internal rules and procedures. (“the RPOF Chairman still refuses to pull the charters of the West Charlotte County Republican Club and the Charlotte County Republican Club”); (“The Republican Party did not do anything.”); (“possibly illegal activity of the clubs and the CCREC was brought to light a year ago and the clubs are still permitted to operate under the Republican Party of Florida umbrella.”); (“The Republican Party of Florida will not help stop it.”); (“I have contacted the Republican Party of Florida numerous times over the last several months with no action by the party.”).

While it is not true that the RPOF has done nothing in response to concerns expressed by the Complainant, even if it were, this is not a violation of the Act and is not something with which the Commission has jurisdiction. Interestingly, Complainant cites no provision of the Act that has been violated by the RPOF either. At best, Complainant is upset that the RPOF is not moving swiftly to oust his local political enemies. This is best suited for the political arena, not for a matter before the Commission.

<sup>12</sup> See Compl. at 2-5.

<sup>13</sup> *Id.*

Because of his frustration, Complainant comes to the Commission asking it to force the RPOF to take action according to the RPOF's own rules and procedures. How the RPOF decides to enforce its own internal rules and procedures is for the RPOF to decide and not the Commission. "[P]olitical parties have no fewer rights than other private organizations" and therefore must be protected from "unwarranted government intrusion and interference."<sup>14</sup> Thus, "a party's choice, as among various ways of governing itself, of the one which seems best calculated to strengthen the party and advance its interest, deserves the protection of the Constitution."<sup>15</sup> The question of whether the RPOF (or its Treasurer) is following its own internal rules and procedures as it pertains to Republican county executive committees and Republican chartered clubs is not one for the Commission or any court to review.<sup>16</sup>

Lastly, the Complaint also makes several allegations that the Republican Clubs and the CCREC have violated Florida election law. Although these allegations are not directed at Respondent, even if they were, the Commission is without jurisdiction to investigate allegations of violations of state law.

**D. Complaint's allegation that Respondent has taken "no action" is false.**

As mentioned above, Complainant asserts that he has contacted the RPOF "numerous times to try and correct the situation over the last several months, with no action by the party." First, Complainant does not allege any violation of the Act by which this Commission has jurisdiction over. Second, Complainant's facts are plain wrong. In fact, right after Complainant says that the RPOF has taken no action he directly contradicts himself and goes into detail about a meeting organized by the RPOF to address Complainant's concerns. Complainant states that "[o]n April 7, 2018, at the R.P.O.F. Quarterly meeting in Tampa. [sic] RPOF Chairman Ingoglia called the West Charlotte County Republican Club and Charlotte County Republican Club Officers to Tampa to meet with me concerning the allegations."<sup>17</sup>

Despite Complainant's lack of clear evidence and vague and speculative allegations, the RPOF takes seriously any alleged violation (whether speculative or not) of federal or state election law by its clubs or county executive committees. The RPOF regularly provides training and information regarding federal and state campaign finance laws to its county executive committees and clubs. RPOF's Chairman has also convened a special independent audit committee specifically to review the finances of the Republican Clubs and the CCREC to ensure that they are adhering to federal and state election laws, and that they have guidelines in place to ensure compliance.

<sup>14</sup> *Duke v. Smith*, 784 F. Supp. 865, 870 (S.D. Fla. 1992).

<sup>15</sup> *Id.* (quoting *Ripon Soc'y v. Nat'l Republican Party*, 525 F.2d 567, 585 (D.C. Cir. 1975)).

<sup>16</sup> See *Wymbs v. Republican State Exec. Comm. of Fla.*, 719 F.2d 1072, 1082-83 (11th Cir. 1983) (The controversy presented in the complaint "is a disagreement over a pure question of internal Republican Party policy," therefore the court must "stay its hand."); see also *id.* ("The Supreme Court has cautioned against interference in the inner workings of political parties.")

<sup>17</sup> See Compl. at 3.

If any Republican club or county executive committee are found to have violated federal or state election laws, the Chairman has authority to revoke club charters under RPOF rules or to withhold candidate filing fees from the REC under Florida law.<sup>18</sup> Complainant's vague assertions that the RPOF has taken "no action" is false and even if true, is not a violation of the Act.

### III. Conclusion

The Complaint should be dismissed for any of the reasons set forth above. First, the Complaint does not allege that the Respondent has violated any provisions of the Act, and the allegation that the Respondent has not taken action against other that have "possibly" violated the Act is not a violation. Second, the Complaint is procedurally defective because it relies exclusively on vague and speculative information or hearsay to supports its claims. Third, the Complaint asks the Commission to find a violation for Respondent not acting on its own internal party rules, of which the Commission has no jurisdiction. And fourth, the Complaint's allegations that Respondent has done nothing in response to Complainant's concerns are false.

Therefore, the Commission should find no reason to believe that the RPOF or its Treasurer, Mr. Mike Moberley violated the Act or Commission regulations and dismiss this matter.

Sincerely,



Benjamin J. Gibson

*Counsel for Respondents, Republican Party of  
Florida and Mike Moberley, Treasurer*

<sup>18</sup> See § 103.121(5), Fla. Stat., "The state chair of each state executive committee shall return the 2-percent committee assessment for county candidates to the appropriate county executive committees only. . . upon the state chair's determination that the county executive committee is in compliance with all Florida statutes and all state party rules, bylaws, constitutions, and requirements."

MUR # 7376

Complaint 1. All ~~of~~ accusations are stated as "maybe" nothing  
of  
4/23/18 Factual.

10/24/16 2.) Event was a "get out the vote event". It  
included all candidates. Of course at the time  
everyone wanted to talk about Trump.

4/22/16 3.) Not a contribution. Lincoln Day Dinner tickets  
sold to 3<sup>rd</sup> parties. (45 tickets @ \$100 + 8 VIP tickets @ \$150.

4/22/16 4.) Not a contribution. Lincoln Day Dinner tickets  
(WCCRC 10 tickets @ \$100.) sold to 3<sup>rd</sup> parties.

6/16/16 5.) Not a contribution. Ad reimbursement of \$216 paid  
to the R.E.C. for Ad.

8/04/16 6.) Not a contribution. Ticket bought & sold to third  
parties for "Republican of the Year Dinner."

8/7/16 7.) No Trump material was ever sold.

8/8/16 8.) Billboards 3 were erected. No knowledge of  
a violation. The Chairman of the REC (Bill Fournier) had  
the latitude to pay for Billboards.

8/14/16 9.) 712.71. No knowledge of this.

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